

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

JOEL R. LAMBRIGHT JR.	§	
v.	§	CIVIL ACTION NO. 9:04cv78 (Crim. No. 9:00cr14)
UNITED STATES OF AMERICA	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Movant Joel Lambright, proceeding *pro se*, filed this motion to vacate or correct sentence under 28 U.S.C. §2255 complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Lambright was convicted on a guilty plea of violation of civil rights and sentenced to 97 months in prison. He took a direct appeal, and his conviction was affirmed by the Fifth Circuit Court of Appeals on January 30, 2003.

In his Section 2255 motion, Lambright raised nine grounds for relief. The Magistrate Judge ordered the Government to answer, and Lambright filed a response to this answer. This response added one new claim and condensed his claims into five grounds for relief, saying that any ground raised in his original or supplemental motion not included in the condensation of his claims has been abandoned.

After careful review of the pleadings and records, the Magistrate Judge issued a Report on May 2, 2006, recommending that relief be granted to the extent that Lambright receive 204 days of credit on his sentence for the time served in state custody, to which time the Government conceded that Lambright was entitled. The Magistrate Judge further recommended that all other requested

relief be denied. Lambright filed objections to the Magistrate Judge's Report on July 17, 2006, but sought leave to file a brief in support of his objections on that same day. Leave to supplement the objections was granted and Lambright was given until August 18, 2006 in which to file his brief; to date, however, no brief or supplemental objections have been forthcoming.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original and amended motions to vacate or correct sentence, the Government's original and amended responses thereto, the Report of the Magistrate Judge, the Movant's objections thereto, and all pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the objections of the Movant are without merit. It is accordingly

ORDERED that the Movant's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion to vacate or correct sentence is GRANTED to the extent that he is entitled to a time credit on his sentence of 204 days for time spent in state custody. It is therefore

ORDERED that the judgment in cause no. 9:00cr14 (docket no. 81) is hereby AMENDED to provide that Lambright shall receive 204 days of credit on his sentence for time spent in state custody. The Clerk shall prepare an amended judgment in this criminal case and shall transmit a copy of this amended criminal judgment, as well as a copy of the opinion in this Section 2255 proceeding, to the United States Marshal for the Eastern District of Texas and to the Designation and Sentence Computation Center for the Federal Bureau of Prisons at DSCC, U.S. Armed Forces Reserve Complex, 304 Marine Forces Drive, Grand Prairie, Texas 75051. It is further

ORDERED that in all other respects, the relief sought by the Movant in this Section 2255 proceeding is DENIED. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So **ORDERED** and **SIGNED** this **15** day of **September, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge